

EXHIBIT F

From: lmalm@cgsh.com
To: [Duxstad, Lauren](#)
Cc: [Badini, Aldo](#); [Torpey, Susannah](#); [DalSanto, Matthew](#); [Cui, Mulan](#); [Dan Johnson](#); [Mario Moore](#); ["Valarie Williams"](#); [Welch, Emily](#); [Mukhi, Rahul](#); [Brannon, Leah](#); wendelynn.newton@bipc.com; gretchen.jankowski@bipc.com; mackenzie.baird@bipc.com
Subject: RE: In re Keurig - Gajarsa Report
Date: Tuesday, December 22, 2020 5:55:44 PM
Attachments: [image001.jpg](#)
[image003.jpg](#)
[image006.jpg](#)
[image008.jpg](#)

Lauren,

We think that the parties' positions are clear, that we understand each other well, and that we are not going to do anything in a telephonic meet and confer other than repeat this email exchange, which serves no purpose.

Happy holidays.

Larry

Larry Malm

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From: Duxstad, Lauren <LDuxstad@winston.com>
Sent: Tuesday, December 22, 2020 1:25 PM
To: Malm, Larry <lmalm@cgsh.com>
Cc: Badini, Aldo <ABadini@winston.com>; Torpey, Susannah <STorpey@winston.com>; DalSanto, Matthew <MDalSanto@winston.com>; Cui, Mulan <MCui@winston.com>; Dan Johnson <dan@danjohnsonlawgroup.com>; Mario Moore <mario@danjohnsonlawgroup.com>; 'Valarie Williams' <valarie.williams@alston.com>; Welch, Emily <Emily.Welch@alston.com>; Mukhi, Rahul <rmukhi@cgsh.com>; Brannon, Leah <lbrannon@cgsh.com>; wendelynn.newton@bipc.com; gretchen.jankowski@bipc.com
Subject: RE: In re Keurig - Gajarsa Report

Larry,

We continue to believe a meet and confer is appropriate at this time and repeat our request for you to provide your availability. The authority we have in support of our request is the undeniable legal and ethical obligations you have to the Court and opposing counsel to refrain from taking any frivolous actions in pending legal proceedings.

We reminded you of the black letter law that experts cannot opine on principles of law when you designated Judge Gajarsa. You have failed repeatedly to cite any authority to the contrary. You are thus proceeding at your own risk.

Best,

Lauren

Lauren E. Duxstad

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From: Malm, Larry <lmalm@cgsh.com>

Sent: Tuesday, December 22, 2020 12:22 PM

To: Duxstad, Lauren <LDuxstad@winston.com>

Cc: Badini, Aldo <ABadini@winston.com>; Torpey, Susannah <STorpey@winston.com>; DalSanto, Matthew <MDalSanto@winston.com>; Cui, Mulan <MCui@winston.com>; Dan Johnson <dan@danjohnsonlawgroup.com>; Mario Moore <mario@danjohnsonlawgroup.com>; 'Valarie Williams' <valarie.williams@alston.com>; Welch, Emily <Emily.Welch@alston.com>; Mukhi, Rahul <rmukhi@cgsh.com>; Brannon, Leah <lbrannon@cgsh.com>; wendelynne.newton@bipc.com; gretchen.jankowski@bipc.com

Subject: RE: In re Keurig - Gajarsa Report

Lauren,

Keurig expects to file several Daubert motions as well, and we expect plaintiffs to contest them. We are not asking for your caselaw, as that would not be appropriate.

TreeHouse has provided no authority for its position that it is entitled to the caselaw Keurig may use in its Daubert opposition brief now. Nor has TreeHouse provided any authority for the idea that an excluded expert leads to recovery of expert fees paid opposing that expert. As such, this seems to be an inappropriate use of a sanction threat to intimidate a litigant into withdrawing an aspect of its defense. Keurig will not abide by that.

We do not see the usefulness of a meet and confer today, as we are not going to provide the cases that we may cite in a brief in nine months and we are not going to withdraw the Gajarsa report.

Should you insist on one anyway, we can make ourselves available. We note, however, that the only unnecessary cost imposition now is the cost to Keurig of these responses to demands levied without basis. If you insist on a meet and confer, please provide your authority for demanding our caselaw now.

Larry

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From: Duxstad, Lauren <LDuxstad@winston.com>
Sent: Tuesday, December 22, 2020 10:22 AM
To: Malm, Larry <lmalm@cgsh.com>
Cc: Badini, Aldo <ABadini@winston.com>; Torpey, Susannah <STorpey@winston.com>; DalSanto, Matthew <MDalSanto@winston.com>; Cui, Mulan <MCui@winston.com>; Dan Johnson <dan@danjohnsonlawgroup.com>; Mario Moore <mario@danjohnsonlawgroup.com>; 'Valarie Williams' <valarie.williams@alston.com>; Welch, Emily <Emily.Welch@alston.com>; Mukhi, Rahul <rmukhi@cgsh.com>; Brannon, Leah <lbrannon@cgsh.com>; wendelynne.newton@bipc.com; gretchen.jankowski@bipc.com
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Larry,

Plaintiffs have been and will continue to be prejudiced in light of Keurig's refusal to withdraw Judge Gajarsa's improper expert report. Accordingly, Plaintiffs plan to file a Daubert motion to exclude Judge Gajarsa's testimony and reserve all rights to recover all costs and fees incurred in connection with replying to the report. We assume that Keurig understands the legal authority it purportedly has for serving Judge Gajarsa's report at this time and your efforts to delay the meet and confer are inappropriate. We are disappointed that Keurig has chosen to unreasonably increase our litigation costs once again.

Again, please let us know your availability for a meet and confer. We are generally available today.

Best,
Lauren

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From: Malm, Larry <lmalm@cgsh.com>
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Subject: RE: In re Keurig - Gajarsa Report

Lauren,

We are always willing to participate in a legitimate meet and confer. We are confused by the demand below, however. We are aware of no obligation to provide to you at this time the legal authority we would expect to cite in our September 29, 2021 brief in opposition to your anticipated August 18 Daubert motion. What is the basis for your demand that we provide such information now?

Kind regards,

Larry

Larry Malm

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From: Duxstad, Lauren <LDuxstad@winston.com>

Sent: Monday, December 21, 2020 6:34 PM

To: Malm, Larry <lmalm@cgsh.com>

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Subject: RE: In re Keurig - Gajarsa Report

Larry,

We continue to disagree that Keurig has any basis to offer Judge Gajarsa's testimony and note that Keurig has still not provided any legal authority for its contention that such expert testimony as to objective baselessness is proper. Given Keurig's refusal to withdraw the report, Plaintiffs will now be forced to file a Daubert motion. In addition, despite the fact that Plaintiffs believe we have a strong basis to exclude Judge Gajarsa's testimony, Plaintiffs will be forced to expend the energy and expense on rebuttal reports in the unlikely event that Judge Gajarsa's testimony is permitted.

As previously requested, please promptly let us know your availability for a meet and confer. We are generally available tomorrow. Please be prepared to discuss your purported basis for offering Judge Gajarsa's testimony, including any legal authority in support of Keurig's position.

Best,
Lauren

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From: Malm, Larry <lmalm@cgsh.com>

Sent: Friday, December 18, 2020 6:20 PM

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Subject: RE: In re Keurig - Gajarsa Report

Lauren,

Keurig has a sound basis to offer Judge Gajarsa's opinions and testimony as part of its defense to sham litigation claims. If plaintiffs do not agree, they may file a *Daubert* motion, which under the Court's schedule, is due on August 18, 2021. Should plaintiffs file such a motion, we will brief it, but this is not the time (or forum) for that debate. If you believe you have a such a strong motion, you may decide that eliminates the need for rebuttal experts, and you are free not to proffer such rebuttal experts.

Regardless of the strategy plaintiffs choose, there is no legitimate basis for your contention that Plaintiffs may recover "all expert and legal fees expended in replying" to Judge Gajarsa's expert report. Keurig proffers Judge Gajarsa's opinions in good faith and will not withdraw Judge Gajarsa's report.

Kind regards,
Larry

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Subject: In re Keurig - Gajarsa Report

Larry,

As you know, when you first designated Judge Arthur Gajarsa as an expert to testify on the “objective baselessness of Keurig’s prior claims against TreeHouse and JBR,” we asked for a meet and confer with you to understand what possible basis you had for designating an expert on what is obviously a question of law and not the proper subject of expert testimony. When we had that meet and confer on July 8, 2020, you failed to provide us with any authority justifying your planned action and indicated that you would proceed as indicated, notwithstanding our objections. Consequently, over protest, Treehouse and McLane disclosed and retained Judge Randall Rader, and Rogers disclosed and retained Judge Ware, to counter any proposed testimony that Judge Gajarsa intended to provide in the highly unlikely event that Judge Gajarsa’s testimony is not excluded.

Now that we have received Judge Gajarsa’s report, we can all see, as expected, that his proffered testimony is inadmissible, going to questions of law and not related to any scientific or expert field of study. Please confirm immediately that you will voluntarily withdraw his report. If not, we reserve all of our rights, including, but not limited to, the right to recover all expert and legal fees expended in replying to his facially inappropriate and inadmissible opinions.

Best,
Lauren

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